

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Darrell Lee Bailey, Sr.,)
)
)
Plaintiff,) C.A. No. 3:08-141-HMH-JRM
)
)
vs.) **OPINION & ORDER**
)
)
Lt. Kitchen;)
MCO S. McClanahan;)
Magistrate Judge Barry Koon, and
Charles Verner, Public Defender,)
)
)
Defendants.)

This matter is before the court on the “objections” of Darrell Lee Bailey, Sr. (“Bailey”) for what the court construes to be a motion to reconsider the court’s March 6, 2008, order adopting the Report and Recommendation of United States Magistrate Judge Joseph R. McCrorey. In the March 6, 2008, order, the court dismissed without prejudice and without issuance and service of process Defendants Magistrate Judge Barry Koon and Charles Verner, Public Defender (“Verner”). Bailey filed the instant motion on March 24, 2008.

In his motion, Bailey objects to the court’s March 6, 2008, order, alleging that he does not understand “legal words” and does not have access to a law library. (Mot. 1.) Judgment has not been entered in this case. Therefore, the “district court retains the power to reconsider and modify its interlocutory judgments . . . at any time prior to final judgment when such is warranted.” Am. Canoe Ass’n v. Murphy Farms, Inc., 326 F.3d 505, 514-15 (4th Cir. 2003). Further, “[m]otions for reconsideration of interlocutory orders are not subject to the strict standards applicable to motions for reconsideration of a final judgment.” Id. at 514.

In this action, Bailey alleged that Verner and Magistrate Judge Koon violated his civil rights under 42 U.S.C. § 1983. The court dismissed Verner because a public defender is not acting under color of state law while representing Bailey. Further, any action against Magistrate Judge Barry Koon is prohibited by the doctrine of judicial immunity. After review, Bailey has failed to present any evidence warranting reconsideration of this court's March 6, 2008, order.

Therefore, it is

ORDERED that Bailey's motion, docket number 20, is denied.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
United States District Judge

Greenville, South Carolina
March 28, 2008

NOTICE OF RIGHT TO APPEAL

The Plaintiff is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.